

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Honora Tremaine Patterson,

Civ. No. 17-2263 (DSD/BRT)

Plaintiff,

v.

Emmanual Kintu; Nick Dechene; Dan  
Meyer; Steve McCarty; Tim Demolling;  
Aoun Noor; John Spielman; John Ricci;  
and Chris Roth, each sued in their  
personal capacities,

**REPORT AND  
RECOMMENDATION**

Defendants.

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Honora Tremaine Patterson, OID#237000, MCF-Stillwater, 5329 Osgood Ave N.,  
Stillwater, MN 55082, *pro se* Plaintiff.

Bradley Simon, Esq., Minnesota Attorney General's Office, counsel for Defendants.

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BECKY R. THORSON, United States Magistrate Judge.

*Pro se* Plaintiff Honora Tremaine Patterson alleges that various defendants violated his rights under the Eighth Amendment. (*See* Doc. Nos. 1, 1-1, Compl.; Doc. No. 40, Am. Compl.) Plaintiff also alleged that one of the defendants, Steve McCarty, violated his right to due process by disciplining Plaintiff on the basis of a false incident report. (Doc. No. 1-1 at 10.) Defendants moved to dismiss the due process claim against McCarty on November 22, 2017. (Doc. No. 31.)

On December 1, 2017, Plaintiff moved for leave to file an amended complaint. (Doc. No. 38.) This motion was granted on January 11, 2018. (Doc. No. 48.) In a subsequent filing, Plaintiff expressly states that he has withdrawn his due process claim

against McCarty. (Doc. No. 44.) Therefore, this Court will recommend that Defendants' partial motion to dismiss be granted.

Based on the foregoing, and on all of the files, records, and proceedings herein,

**IT IS HEREBY RECOMMENDED** that:

1. Defendants' Partial Motion to Dismiss (Doc. No. 31) be **GRANTED**; and
2. Plaintiff's claim against Defendant McCarty be **DISMISSED WITH PREJUDICE**.

Date: January 16, 2018.

s/ Becky R. Thorson

BECKY R. THORSON

United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).